

RULE PROPOSAL

HEALTH AND SENIOR SERVICES

DIVISION OF SENIOR BENEFITS AND UTILIZATION MANAGEMENT

LIFELINE CREDIT PROGRAM/TENANTS LIFELINE ASSISTANCE PROGRAM MANUAL

Proposed New Rules: N.J.A.C. 8:83A

Authorized By: Clifton R. Lacy, M.D., Commissioner, Department of Health and Senior Services.

Authority: N.J.S.A. 48:2-29.15 et seq. and 48:2-29.31 et seq.; "Executive Reorganization Act of 1969," N.J.S.A. 52:14C-1 et seq.; "State Agency Transfer Act," N.J.S.A. 52:14D-1 et seq.; Executive Reorganization Plan 001-1996.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004-186.

Submit written comments by July 16, 2004 to:

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A copy of the proposal is available for review at all offices of the Area Agencies on Aging, which are situated in all 21 counties.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978)/N.J.S.A. 52:14B-5.1, the rules governing the Lifeline Credit/Tenants Lifeline Assistance Programs (Lifeline) expired on September 11, 2003. These programs were transferred from the Department of Human Services (DHS) to the Department of Health and Senior Services (the Department) through Reorganization Plan No. 001-1996. The rules governing the programs were recodified from N.J.A.C. 10:69B to N.J.A.C. 8:83A as of November 3, 1997 (see 29

N.J.R. 4679(a)). As a practical matter, recodification of these rules had no effect on the sunset date established by Executive Order No. 66 (1978). The New Jersey State budget for fiscal year 2004 transferred the responsibility for funding Lifeline benefits to the Board of Public Utilities (BPU). Pursuant to a Memorandum of Understanding (MOU) between the Department and BPU, the Department will continue to administer the Lifeline programs.

The Department has reviewed the expired rules and has determined that the rules are necessary, adequate, reasonable, proper and responsive for the purpose for which they were originally promulgated. However, the Department has identified some areas of the expired rules for which amendments are either necessary or appropriate in order to better serve the interests of Lifeline applicants and beneficiaries, as well as continue the efficient administration of the Lifeline program.

Subchapter 1, Lifeline Credit Program/Tenants Lifeline Assistance Program, explains the purpose and intent of the programs and lists the laws on which the programs are based. The purpose of the programs is to provide financial assistance towards the cost of gas and electricity bills for eligible residential utility customers. Tenants receive assistance in the form of a check if their utility costs are included as part of the rent. Utility customers are given a credit that is applied to their utility bill.

The subchapter also lists the laws on which the program is based. The proposal includes a reference to Reorganization Plan No. 001-1996 which transferred authority for Lifeline to the Department. It also makes reference to the Memorandum of Understanding between the Department and the Board of Public Utilities, which transferred funding of the program to BPU, but keeps administration within the Department.

The section also defines the words and terms used in this chapter. The definitions of "special needs trusts" and "viatical settlements" were not in the expired rules but are added to this proposal to make it compatible with PAAD and Senior Gold rules.

Subchapter 2, Administrative Organization, explains that the Department is responsible for developing rules, policies, regulations and procedures for the programs. It also explains that the Department has direct responsibility for processing applications and determining eligibility as well as other administrative functions. It defines the responsibility of the agency and the utility companies. This subchapter also defines the boundaries of confidentiality and disclosure of information involving applicants and beneficiaries.

Subchapter 3, Application Process, describes and explains the application process, defines the term "authorized agent" and sets forth the responsibilities of the Department and the applicant in the application process. "Power of attorney" was not on the list of authorized agents in the expired rules, but is added here to make this rule compatible with PAAD and Senior Gold rules.

Subchapter 4, Eligibility, defines the age, domicile, income and disability requirements for eligibility. The subchapter also defines which types of income are excludable and gives examples of the types of countable income used in determining eligibility. This subchapter clarifies some of the possible sources of includable income. These sources of income were not in the expired rules but are added here to make them compatible with PAAD and Senior Gold regulations.

N.J.A.C. 8:83A-4.2(c)1xvii further defines annuities as both qualified and nonqualified. N.J.A.C. 8:83A-4.2(c)1xviii clarifies the meaning of retirement benefits to specifically designate IRA distributions as includable income. N.J.A.C. 8:83A-4.2(c)1xx specifies that the fair market value of prizes and awards must be counted in determining Lifeline program eligibility. N.J.A.C. 8:83A-4.2(c)1xxi states that gambling and lottery winnings are countable income. N.J.A.C. 8:83A-4.2(c)1xxii includes rental income (net after expenses) as countable income. Social Security benefits, Veterans benefits and disability benefits are all added as includable income.

This subchapter also includes the provisions which list the types of income which are excludable in determining Lifeline program eligibility. This list is amended from the expired rules to make it compatible with PAAD rules.

N.J.A.C. 8:83A-4.2(c)2iv adds the one time capital gain of up to \$250,000 for a single person and \$500,000 for a married couple from the sale of a principal residence for individuals age 55 or older whose profits are excluded from the State gross income tax. N.J.A.C. 8:83A-4.2(c)2v includes stipends from the Volunteers to Service in America (VISTA), Foster Grandparents and programs under Title V of the Older Americans Act of 1965 to the list of excludable income. N.J.A.C. 8:83A-4.2(c)2vi excludes Agent Orange payments as a countable income in determining Lifeline program eligibility.

N.J.A.C. 8:83A-4.2(c)2vii adds Reparation payments to Japanese Americans by the Federal Government, pursuant to sections 105 and 106 of the Civil Liberties Act of 1988, P.L. 100-383, to the list of excludable income. N.J.A.C. 8:83A 4.2(c)2viii adds rewards involving health care fraud or abuse to the list of excludable income. N.J.A.C. 8:83A-4.2(c)2ix excludes Holocaust reparations from countable income. Proceeds from viatical settlements, special needs trusts, rollovers and demutualization are also excluded in considering eligibility for the Lifeline program.

Provisions for a special needs trust have been added to N.J.A.C. 8:83A-4.2(d) to explain what a special needs trust must include in order to be excluded in considering eligibility for Lifeline. Former N.J.A.C. 8:83A-4.2(d) through (i) have been recodified as (e) through (j) to accommodate the addition.

Additionally, N.J.A.C. 8:83A-4.8(a) designates the AP-2 application as the only application to be used for applicants who wish to apply for both the PAAD and Lifeline programs. Subchapter 4 also describes what action the Department and the beneficiary

should take when it is determined that the beneficiary is ineligible. This subchapter also explains what utility information is necessary, discusses Lifeline eligibility applications, the Social Security Account number, the certification and authorization which must be signed on the application, the eligibility period and the appeal process. A further addition to the appeals process has been included in here to make clear that if a fair hearing is requested, the petitioner must indicate the existence of a question of fact or law in the Lifeline rules, or he or she will be denied the hearing. This has been added to the expired rules to make the Lifeline rules compatible with PAAD and Senior Gold rules.

Subchapter 5, Recoveries, defines benefits incorrectly paid and the types of action that may be taken by the Department to recover payments or credits paid to an ineligible beneficiary. The Lifeline Eligibility Manual was promulgated to set forth the basic policies and procedures to provide financial assistance to pay residential gas and electric utility bills for eligible seniors and disabled persons. Renters receive a \$225.00 check while homeowners receive a \$225.00 credit on their gas or electric utility bill. The Lifeline programs are State funded.

Because the Department has provided a 60-day comment period on this notice of proposal, this notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) requires State agencies that propose, adopt, readopt or amend State rules to include a statement of Social Impact. The proposed new rules will have a positive social impact on beneficiaries. There are approximately 320,000 persons who currently receive the Lifeline benefit. Eligible persons are lower income senior citizens and disabled individuals who may not be able to afford to pay their full gas and electric bills. The \$225.00 credit or check they receive from Lifeline provides financial relief from the high costs of utilities.

Economic Impact

N.J.S.A. 52:14B-1 et seq. (P.L.1995, c. 65) requires State agencies that propose, adopt, readopt or amend State rules to include a statement of Economic Impact that describes the expected costs, revenues and other economic impact upon governmental bodies of the State, and particularly any segments of the public proposed to be regulated.

Eligible beneficiaries receive \$225.00 toward their gas and electric utility costs. Homeowners receive this benefit as a credit on their utility bill. Tenants whose utility costs are included in their rent receive the benefit in the form of a check.

For eligible beneficiaries who receive Supplemental Security Income (SSI) under P.L.1973, c. 256, the Lifeline credit is included in their SSI checks as a special State

utility supplement and is made in 12 monthly installments. If, at the end of the year, a beneficiary has not received the full credit for that year, a payment for the balance will be issued by the State Treasurer.

The total Fiscal Year 2004 Lifeline program expenditures are budgeted at approximately \$72 million. These funds are generated from the Casino Revenue Fund.

Federal Standards Statement

The proposed new rules on which Lifeline is based are not subject to Federal standards or requirements. Lifeline eligibility as a disabled person is predicated on receipt of benefits under Title II of the Social Security Act.

The Lifeline programs are fully State funded and operate under the direction of the Department of Health and Senior Services. The Special Utility Supplements established to assist Supplemental Security Income (SSI) beneficiaries are untouched by this program. Thus, a Federal Standards analysis is not required.

Jobs Impact

The Department expects that there will be no impact on jobs as a result of the proposed new rules. Lifeline beneficiaries are either elderly or disabled who meet the income standards for this program.

There will be no job impact upon gas and electric utility companies, and no jobs generated or lost as a result of the proposed new rules.

Agriculture Industry Impact

The proposed new rules will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed new rules do not impose any reporting, recordkeeping or other requirements on small businesses. All the gas and electric utility companies regulated employ more than 100 people full-time. Therefore, there is no impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Smart Growth Impact

The proposed new rules will have no impact on the achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Full text of the proposed new rules follows:

CHAPTER 83A
LIFELINE CREDIT PROGRAM/TENANTS LIFELINE
ASSISTANCE PROGRAM MANUAL

**SUBCHAPTER 1 LIFELINE CREDIT PROGRAM/TENANTS LIFELINE
ASSISTANCE PROGRAM**

8:83A-1.1 Purpose and intent

- (a) The intent of the Lifeline Credit Program is to provide a minimum supply of gas and electricity for heating, lighting, cooling, cooking, and other essential household usages, which have been determined to be necessities of life, to those residential utility customers whose level of income and age or disability status makes it difficult to meet the extraordinary and unprecedented energy costs which have been experienced in recent years.
- (b) The intent of the Tenants Lifeline Assistance Program is to afford assistance to residents who, by virtue of their level of income and age or disability status, would be eligible for the Lifeline Credit Program; but because of their living accommodations (their utility costs are included as part of the rental), they do not receive an individual utility bill, and are therefore, ineligible for the Lifeline Credit Program, but who are nonetheless deserving of financial relief from burdensome energy costs.

8:83A-1.2 Legal authority

- (a) The New Jersey Lifeline Credit Program was established by P.L. 1979, Chapter 197, as amended and supplemented, N.J.S.A. 48:2-29.15 et seq. (see also Reorganization Plan No. 001-1996).
- (b) The New Jersey Tenants Lifeline Assistance Program was established by P.L. 1981, Chapter 210, as it amends and supplements P.L. 1979, Chapter 197, N.J.S.A. 48:2-29.31 et seq. (see also Reorganization Plan No. 001-1996).
- (c) The New Jersey State budget for fiscal year 2004 transferred the responsibility for funding Lifeline benefits to the Board of Public Utilities (BPU). Pursuant to a Memorandum of Understanding (MOU) between the Department and BPU, the Department shall continue to administer the Lifeline programs.

8:83A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Annual income" means all income from whatever source derived, actually received or anticipated.

"Anticipated income" means the amount of income the applicant can reasonably be expected to receive during the calendar year.

"Applicant" means an individual who applies for the Lifeline benefit either personally or through an authorized agent.

"Authorized agent" means a person who initiates the Lifeline application for a person who is incompetent or incapable of filing the Lifeline application on his or her behalf.

"Beneficiary" means an individual who has been found eligible for Lifeline benefit.

"Calendar year" means a year beginning January 1 and ending on December 31. It is the base period utilized to determine annual income and Lifeline eligibility.

"Commissioner" means the Commissioner of the Department of Health and Senior Services.

"Department" means the Department of Health and Senior Services.

"Electric utility" means every New Jersey public utility which provides residential electric service, as defined in this section, and is regulated by and subject to the jurisdiction of the Board of Public Utilities. Additionally, any municipality or other governmental entity providing residential electric service, as defined in this section, within the State of New Jersey, shall be deemed an electric utility for the limited purposes of this program.

"Gas utility" means every New Jersey public utility which provides residential gas service, as defined in this section, and is regulated by and subject to the jurisdiction of the Board of Regulatory Commissioners. Additionally, any municipality or other governmental entity providing residential gas service, as defined in this section, within the State of New Jersey, shall be deemed a gas utility for the limited purposes of this program.

"Household" means all individuals who occupy one or more rooms which constitute separate and distinct living quarters.

"Lifeline" means the Lifeline Credit Program and/or the Tenants Lifeline Assistance Program.

"Lifeline Credit" means a benefit in the form of a credit in an amount established by law made to the utility accounts of an individual who has been determined to be eligible for the Lifeline Credit Program.

"Previous year" means the calendar year preceding the year in which the person is applying or reapplying for Lifeline. For example, 2002 is the "previous year" when

referring to an application which is dated between January 1, 2003 through December 31, 2003.

1. If a person who is required to submit a Federal, State and/or City Income Tax return applies for Lifeline at the beginning of a calendar year but has not yet filed an income tax return for the previous year, the year preceding the previous year is considered to be the last or "previous year" when completing the Lifeline application.

"Resident" means one legally domiciled within the State of New Jersey for a period of 30 days immediately preceding the date of application for inclusion in the Program. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile.

"Residential electric service" means electricity supplied by an electric utility, for domestic purposes, through an individual meter to a dwelling unit defined as residential by the individual tariff of the servicing utility.

"Residential gas service" means gas supplied by a gas utility, for domestic purposes, through an individual meter to a dwelling unit defined as residential by the individual tariff of the servicing utility.

"Residential utility customer" means that individual whose name appears on the servicing utility's records and is responsible for payment of the cost of the utilities.

"Special needs trust" means a trust containing the assets of a disabled individual that is established for the sole benefit of the individual by a parent, grandparent, legal guardian or court prior to the time the individual reaches the age of 65. (See N.J.A.C. 8:83A-4.2(d) for provisions.)

"Tenant" means an individual who is renting or leasing real property as his or her principal residence, which includes, but is not limited to, apartments, mobile home park sites, residential shareholders in nonprofit residential cooperatives or mutual housing corporations, owners of condominiums, or persons who are boarding.

"Tenants Assistance payment" means a benefit in the form of a check in an amount established by law which is issued to an individual who has been determined to be eligible for the Tenants Lifeline Assistance Program.

"Termination of service" means the notification by the residential utility customer to the servicing utility that the residential utility service is to be discontinued.

"Transferable credit" occurs when a customer moves from one principal residence to another principal residence within the service territory of the same electric and/or gas utility.

"Unused Lifeline Credit" means any portion of the Lifeline Credit not applied against an eligible Lifeline beneficiary's utility bill upon the termination of residential electric and/or gas service.

"Viatical settlement" means the sale or cashing in of a life insurance policy prior to the death of the insured, due to the fact that the insured has experienced a catastrophic, life-threatening or chronic illness or condition.

8:83A-1.4 Lifeline Credit/Tenants Lifeline Assistance payment

- (a) The Lifeline Credit shall consist of a single amount established by law, which will be applied, on a yearly basis, to the electric and/or gas utility bills of an eligible residential customer. Only one credit per year is allowed per household, regardless of the number of eligible residential utility customers living in that household.
1. If the eligible individual is the residential utility customer of only one utility, the total Lifeline Credit shall be applied to the individual's utility account.
 2. If the eligible individual is a residential electric utility customer and a residential gas utility customer, one-half of the total Lifeline Credit shall be applied to each one of the eligible individual's utility accounts.
 3. When an eligible residential utility customer terminates service, the unused balance of the Lifeline Credit shall be dispersed accordingly.
 - i. Within 45 days of termination of service, the electric and/or gas utility shall apply the unused balance to the residential utility customer's account before any other credits or deposits are applied when determining the account balance due to or from the customer.
 - ii. When a residential utility customer changes his or her principal residence from a residential unit in the service territory of an electric and/or gas utility to an eligible residential unit within the service territory of another electric and/or gas utility and maintains utility service in his or her own name, the unused balance shall be transferred as a credit to the new account of the residential utility customer.
 - iii. In the event of the death of an eligible residential utility customer, the unused balance shall be transferred to a new account for the same residence if the new residential utility customer is a surviving member of the decedent's household and is eligible, in his or her own right, for Lifeline Credit benefits.
 - iv. The electric and/or gas utility shall return within 60 days of termination of service, any unused balance that cannot be transferred as stated in (a)3i, ii and iii above, to the Treasurer, State of New Jersey.

- (b) The Tenants Lifeline Assistance payment shall consist of a single amount established by law, which on a yearly basis will be issued in the form of a check. Checks will be sent to eligible tenants who indirectly pay for utilities as part of their rental. Only one eligible tenant per household will be allowed to receive such assistance.
1. When an eligible Tenants Lifeline Assistance beneficiary moves prior to the issuance of payment, the beneficiary must notify the Lifeline Programs. The beneficiary must request a change of address and submit proof of New Jersey residence and the Tenants Lifeline Assistance Program check will be forwarded to the beneficiary.
 2. When an eligible Tenants Lifeline Assistance Program (TLAP) beneficiary moves out of the State of New Jersey, dies or otherwise is determined ineligible, no benefit shall be granted.
 3. When an eligible TLAP beneficiary has received TLAP payments and subsequently becomes ineligible, payments will be discontinued as soon as the Lifeline Programs are aware of the beneficiary's ineligibility.
- (c) A Special Utility Supplement has been established to assist Supplemental Security Income (SSI) beneficiaries who are not eligible for Lifeline Credit or Tenants Lifeline Assistance. This yearly supplement amount, established by law in lieu of Lifeline Credit or Tenants Lifeline Assistance, will be added to each monthly SSI check in amount equal to $[FN1]/12$ of the yearly supplement.
1. When an SSI beneficiary is no longer eligible for the SSI Program, any remaining balance of the Special Utility Supplement may be dispersed accordingly.
 - i. If the terminated SSI beneficiary is eligible for Lifeline Credit or Tenants Lifeline Assistance the remaining balance of the Special Utility Supplement shall be issued to the individual in the form of a check.
 - ii. If the terminated SSI beneficiary is not eligible for Lifeline Credit or Tenants Lifeline Assistance, the remaining balance of the Special Utility Supplement shall be returned to the Treasurer, State of New Jersey.

SUBCHAPTER 2 ADMINISTRATIVE ORGANIZATION

8:83A-2.1 Department of Health and Senior Services

The Department of Health and Senior Services is the administrative unit of the State government designated to administer the Lifeline Programs. As provided in the

"Lifeline Credit Program" and "Tenants Lifeline Assistance Program" acts, this Department is authorized to promulgate policies, rules, regulations and procedures as may be deemed necessary to implement the provisions of these acts.

8:83A-2.2 Lifeline Programs

Lifeline Programs are administered by the Department, which has the direct responsibility for processing applications and determining eligibility for either program, reimbursing utility companies for credits issued, recovering benefits improperly issued and for authorizing the payment of Lifeline benefits.

8:83A-2.3 Agency controls

- (a) The Commissioner shall establish operating policies to expedite the processing of applications and to assure the maximum possible compliance with the standards set forth in this manual.
- (b) The Department has the responsibility for reviewing a sample of beneficiaries' case records to assure that eligibility determinations are consistent with State law and regulations. A quality control review of sample cases selected on a random basis shall include:
 - 1. An analysis of the beneficiary's case record, including the application, maintained by the Lifeline Programs;
 - 2. A personal interview with the beneficiary or the beneficiary's representative(s) to review eligibility information and documentation; and
 - 3. Verification of eligibility factors through collateral contacts.
- (c) The Department is responsible for monitoring beneficiaries participating in the Lifeline Programs.

8:83A-2.4 Responsibilities of the utility companies

- (a) Each electric and gas utility shall inform each eligible residential utility customer of the Lifeline Credit Program when so directed by the Commissioner.
- (b) Each electric and gas utility shall apply only one credit per utility account of an eligible residential utility customer.
- (c) Each electric and gas utility shall recover any credits incorrectly made and return any such recoveries to the Treasurer, State of New Jersey, in accordance with the procedure set forth in N.J.A.C. 8:83A-5.1(f)1.
- (d) Each electric and gas utility shall return to the Treasurer, State of New Jersey, any unused credit/balances.

- (e) Each electric and gas utility shall maintain records of all credits made to residential utility customers.
- (f) Each electric and gas utility shall transfer the Lifeline Credit balance due a residential utility customer to a new utility account if the residential utility customer moves his or her principal place of residence within that utility's service territory.

8:83A-2.5 Confidentiality and disclosure of information

- (a) All personally identifiable information regarding applicants or beneficiaries obtained or maintained under these programs shall be confidential and shall not be released without the written consent of the applicant or beneficiary or their authorized agent.
- (b) Disclosure of information without the consent of the applicant, beneficiary or their authorized agent shall be limited to purposes directly connected with the administration of the program pursuant to State law and regulations.
- (c) The prohibition of (a) above against unauthorized disclosure shall not be construed to prevent:
 - 1. The release of statistical or summary data or information in which applicants or beneficiaries cannot be identified;
 - 2. The release to the Attorney General or other legal representative of this State of information or files relating to the claim of any applicant, beneficiary or their authorized agent challenging the program's statute, regulations or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly or illegally applied or issued benefits has been instituted;
 - 3. The release of information to electric utilities, gas utilities, the Pharmaceutical Assistance to the Aged and Disabled Program, the Social Security Administration and the New Jersey Division of Public Welfare for the Special Utility Supplement;
 - 4. The release of information or files to the State Treasurer or other governmental agency or to their duly authorized representatives, for an audit, review of expenditures or similar activity authorized by law;
 - 5. The release of information or files to any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal laws of this State;

6. The release of information to the Department and participating licensed veterinarians for the purpose of verifying eligibility for benefits under the Animal Population Control Program; or
7. The release of information on files for the purpose of determining eligibility for the Universal Service Fund (USF) program or for the distribution of USF benefits.

SUBCHAPTER 3 APPLICATION PROCESS

8:83A-3.1 General provisions

The application process includes all activity relating to a request for a Lifeline eligibility determination. It begins with the receipt by the Department of an eligibility application and continues in effect until there is an official disposition of the eligibility request by the Department.

8:83A-3.2 Authorized agent

(a) In those instances where the applicant is incompetent or incapable of filing a Lifeline eligibility application on his or her own behalf, the Department shall recognize any of the following persons listed in order of priority, as an authorized agent for the purpose of initiating such application:

1. Power of attorney;
2. A close relative by blood or marriage; such as parent, spouse, son, daughter, brother or sister;
3. A representative payee designated by the Social Security Administration;
4. A staff member of a public or private social service agency, of which the person is a client, who has been designated by the client to so act;
5. A friend.

8:83A-3.3 Responsibilities in the application process

(a) Pursuant to statutory authority, N.J.S.A. 48:2-29.31, the Department shall establish procedures on the application process consistent with law and supervises the operation with the policy and procedures so established.

(b) The Department, through a Memorandum of Understanding with BPU, has responsibility in the application process to:

1. Explain the purposes and eligibility requirements of the program and indicate the applicant's rights and responsibilities under its provisions;
2. Process applications;
3. Certify to the Treasurer, State of New Jersey, the names of eligible tenants;
4. Notify the utility company(ies) of eligible applicants and the amount of credit to be applied to their accounts; and

5. Microfilm eligibility applications and supporting documents and retain microfilm for audit purposes.

(c) The applicant has the responsibility to:

1. Complete the Lifeline eligibility application form truthfully, legibly and accurately.
 - i. All application questions must be fully answered;
 - ii. All necessary documentation of eligibility must be submitted to the Lifeline Program;
 - iii. Read the certification and authorization and sign (or mark) the application; and
 - iv. Obtain the signature (or mark) of the spouse (if married) and the signature of the preparer (if applicable) on the application;
2. Assist the Department in obtaining documentation that supports his or her statements, when required; and
3. Agree to a review by the Department. Lifeline eligibility may be terminated and benefits recovered if the beneficiary refuses to cooperate with a quality control review.

(d) The beneficiary has the responsibility to notify the Department whenever one of the following occurs:

1. He or she moves out of the State of New Jersey;
2. His or her or their annual income increases to an amount which exceeds the eligibility limit;
3. His or her marital status changes;
4. He or she moves anywhere within the State of New Jersey; or
5. He or she is determined to be ineligible for continued Social Security Disability benefits.

(e) The beneficiary has the responsibility to repay the State of New Jersey, upon request, for the cost of benefits incorrectly paid on his or her behalf.

SUBCHAPTER 4 ELIGIBILITY

8:83A-4.1 Eligibility requirements

- (a) To be eligible for the Lifeline Credit Program, an individual shall be a resident and the residential utility customer each year or the spouse of a residential utility customer and satisfy one of the following criteria:
 - 1. Be a Pharmaceutical Assistance to the Aged and Disabled beneficiary or determined to be eligible for PAAD benefits; or
 - 2. Meet the residency, income, and age or disability requirements of the PAAD Program but apply for Lifeline Credit only. (See N.J.A.C. 8:83A-4.8(b).)
- (b) When an individual is not a residential utility customer but is a tenant, as defined in N.J.A.C. 8:83A-1.3, who has the cost of utilities included in his or her monthly rental and the individual meets the eligibility requirements as outlined in (a)1 and 2 above, the individual is eligible to receive benefits from The Tenants Lifeline Assistance Program.

8:83A-4.2 Income standards

- (a) Any single permanent resident of New Jersey who is 65 years of age or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have an annual income of less than \$20,437 to be eligible for Lifeline.
- (b) Any married permanent resident of New Jersey who is 65 years of age or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have a combined (applicant and spouse) annual income of less than \$25,058 to be eligible for Lifeline.
 - 1. An applicant and spouse shall be considered separated when each maintains a separate residence and the applicant does not have access to or receive support from the spouse's income.
 - i. Any support payment received by the applicant, for the sole benefit of the applicant, shall be considered as income for Lifeline eligibility purposes.
 - 2. An applicant and spouse shall be considered separated when the spouse has been institutionalized in a long-term care facility, either skilled or intermediate, or in a State or county psychiatric hospital at least 30 consecutive days prior to application.

(c) All income, from whatever source derived, is considered when determining eligibility for Lifeline.

1. All income, taxable and nontaxable, is to be included. Examples of possible sources of income (gross amounts unless otherwise noted) are as follows:
 - i. Social Security benefits paid to or on behalf of the applicant;
 - ii. Veterans benefits;
 - iii. Disability benefits, whether public or private;
 - iv. Salaries;
 - v. Wages;
 - vi. Bonuses;
 - vii. Commissions;
 - viii. Fees;
 - ix. Dividends;
 - x. Interest taxable and nontaxable;
 - xi. Capital gains;
 - xii. Royalties;
 - xiii. Bequests and Death benefits;
 - xiv. Support payments;
 - xv. Unemployment benefits;
 - xvi. Pensions and Black Lung Benefits;
 - xvii. Annuities (contributory and noncontributory, qualified and nonqualified);
 - xviii. Retirement benefits including distribution from Individual Retirement Arrangements (IRAs) (Traditional, Simple, Roth, Educational) and benefit payments from foreign countries;
 - xix. Business income (net);
 - xx. Fair market value of prizes and awards;
 - xxi. Gambling and lottery winnings; and
 - xxii. Rental income (net after expenses).
2. Sources of income which are excluded in considering eligibility for Lifeline are as follows:

- i. Benefit amounts received under the New Jersey State Lifeline Credit Program/Tenants Lifeline Assistance Program;
- ii. Benefits received under New Jersey Homestead Rebates;
- iii. Proceeds from spouse's life insurance;
- iv. Capital gains of up to \$250,000 for a single person or up to \$500,000 for a married couple on the sale of a main home which is also excluded from income taxation by IRS and the New Jersey Division of Taxation;
- v. Stipends from the Volunteers to Service in America (VISTA), Foster Grandparents programs, Workforce 55+ program and programs under Title V of the Older Americans Act of 1965;
- vi. Agent Orange payments;
- vii. Reparation payments to Japanese Americans by the Federal government pursuant to sections 105 and 106 of the Civil Liberties Act of 1988, P.L. 100-383 (50 U.S.C. App. 1989b-4 and 1989b-5);
- viii. Rewards involving health care fraud or abuse which apply to N.J.A.C. 10:49-13.4;
- ix. Holocaust reparations;
- x. Proceeds from viatical settlements;
- xi. Proceeds received by the beneficiary of a Special Needs Trust (see N.J.A.C. 8:83A-4.2(d) for provisions);
- xii. Rollovers from one tax deferred financial instrument (pension, annuity, IRA, insurance contract or other retirement benefits) to another tax deferred financial instrument;
- xiii. 1035 Tax Free Exchanges of a policy or contract handled between two insurance companies; and
- xiv. An insurance policyholder's original contributions if Demutualization of the policy occurs (in that case, only the earnings on the policy would be counted).

(d) To be considered a special needs trust to be excluded as income for determining eligibility for Lifeline, the trust shall include the following provisions:

- 1. The trust shall specifically state that the trust is for the sole benefit of the trust beneficiary;
- 2. The trust shall specifically state that its purpose is to permit the use of trust assets to supplement, and not to supplant, impair or diminish, any benefits or assistance of any Federal, State or other governmental entity

for which the beneficiary may otherwise be eligible or which the beneficiary may be receiving;

3. The trust shall specifically state the age of the trust beneficiary, that the trust beneficiary is disabled within the definition of 42 U.S.C. § 1382c(a)(3), and whether the trust beneficiary is competent at the time the trust is established;
4. The trust shall specifically identify, in an attached schedule, the source of the initial trust property and all assets of the trust;
5. If the trust makes provisions which are intended to limit invasion by creditors or to insulate the trust from liens or encumbrances, the trust shall state that such provisions are not intended to limit the State's right to reimbursement or to recoup incorrectly paid benefits;
6. The special needs trust shall state that it is established by a parent, grandparent, or legal guardian of the trust beneficiary or by a court;
7. The trust shall specifically state that it is irrevocable. Neither the grantor, the trustee(s), nor the beneficiary shall have any right or power, whether alone or in conjunction with others, in whatever capacity, to alter, amend, revoke, or terminate the trust or any of its terms or to designate the persons who shall possess or enjoy the trust estate during his or her lifetime;
8. The trustee shall be specifically identified by name and address. The trust shall state that the original trust beneficiary cannot be the trustee. The trust shall make provisions for naming a successor trustee in the event that any trustee is unable or unwilling to serve;
9. The trust shall specifically state that the trustee shall fully comply with all State laws, including the Prudent Investor Act, N.J.S.A. 3B:20-11.1 et seq. The trust shall provide that the trustee cannot take any actions not authorized by, or without regard to, State laws. If the trust gives the trustee authorization or power not provided for in the Prudent Investor Act, an accompanying letter shall provide an explanation for each such authorization or power;
10. The trust shall specifically state that the trustee shall be compensated only as provided by law (N.J.S.A. 3B:18-2 et seq.). If the trust identifies a guardian, the trust shall specifically identify him or her by name. A guardian shall be compensated only as provided by law;
11. The trust shall specify that a formal or informal accounting of all expenditures made by the trust shall be submitted to the appropriate eligibility determination agency on an annual basis;
12. The State shall be given advance notice of any expenditure in excess of \$5,000, and of any amount which would substantially deplete the principal of the trust. Notice shall be given to the Office of Support Services for the

Aged, Division of Senior Benefits and Utilization Management, PO Box 715, Trenton, NJ 08625-0715, or any successor agency, 45 days prior to the expenditures; and

13. New Jersey rules and laws do not permit a trust to create a will for an incompetent or a minor. The money creating the trust, any additions and/or interest accumulated, cannot be left to other parties, but shall pass by intestacy. The trust shall not create other trusts within it.
- (e) Upon request by the Department, the applicant must be able to document the amounts reported on the eligibility application, and will be required to submit photocopies of his or her Federal, State and/or city income tax return and other acceptable evidence.
 - (f) Lifeline Credit/Tenants Lifeline Assistance eligibility is conferred based upon annual income for the current calendar year, which is estimated at the time of application. Previous year income information is used as a gauge and supplements estimates of current income to determine current eligibility. However, if previous income exceeds the standard, but current year income is expected to fall within legal limits, an initial applicant may estimate current year income for the purpose of establishing Lifeline eligibility.
 - (g) Since Lifeline eligibility is based upon actual annual income, if the actual annual income for the current calendar year exceeds the Lifeline income standard, the person will become ineligible for the entire calendar year.
 - (h) The Lifeline Program shall take necessary action to recover the full amount of payments made on behalf of beneficiaries during an ineligible period, when appropriate.
 - (i) Lifeline beneficiaries are required to notify the Lifeline Program immediately if their current year income exceeds the established income standard.
 - (j) Since January 1, 1996 and annually thereafter, the income eligibility limits shall increase by the amount of the maximum Social Security benefit cost-of-living adjustment for that year for single and married persons respectively, in accordance with 42 U.S.C. § 415(i)(2)(D), incorporated herein by reference. The Commissioner shall publish the new income limits annually in the New Jersey Register.

8:83A-4.3 Residency requirement

- (a) The term resident shall be interpreted to mean a person having his customary place of abode in New Jersey. (See N.J.A.C. 8:83A-1.3, Definitions.)
- (b) The applicant must be able to substantiate residence upon request by the Department, and is required to submit copies of two documents showing

evidence of current residence at the time of application. The following are examples of proof of residence:

1. Motor vehicle records (for example, valid driver's license);
 2. Landlord's records and rent receipts;
 3. Public utility records and receipts (for example, electric bill);
 4. Personal property assessment records;
 5. Records of professional people or businesses (for example, doctors, department stores, etc.);
 6. Post office records;
 7. Records of social agencies, public or private; and
 8. Employment records.
- (c) Determination as to continued New Jersey residence of a person absent from this State shall be based upon contact with the applicant by a representative of the Department.
- (d) In determining the continued New Jersey residence of an absentee, the issue is whether the individual intends to return to New Jersey or remain indefinitely in the other jurisdiction. If a Lifetime beneficiary leaves New Jersey with the intent to establish a principal residence elsewhere, the beneficiary becomes ineligible for benefits and must immediately notify the Lifeline Program of the change of address.

8:83A-4.4 Age

- (a) The Lifeline applicant who is 65 years of age or older must be able to document his or her age upon request of the Department. The applicant must submit a copy of one of the following acceptable proofs of age:
1. Birth certificate;
 2. Baptismal certificate;
 3. Bris certificate;
 4. Social Security form number 2458 (can be obtained from the local Social Security office);
 5. Railroad Retirement letter (can be obtained from the Railroad Retirement Board); or
 6. Third Party Query Form (can be obtained from the local Social Security office).

(b) If the applicant cannot supply a copy of one of the proofs of age listed in (a)1 through 6 above, the applicant must submit copies of any two of the following acceptable proofs of age:

1. Insurance policy;
2. Driver's license;
3. School record;
4. State or Federal census record;
5. Bible or other family record;
6. Church record of Baptism (age five or after);
7. Confirmation certificate;
8. Marriage record;
9. Employment record;
10. Union record;
11. Military record;
12. Voting record;
13. Delayed birth certificate;
14. Applicant's child's birth certificate;
15. Physician's or midwife's record of applicant's birth;
16. Immigration record;
17. Naturalization record;
18. Passport.

8:83A-4.5 Citizenship

The Lifeline applicant is not required to be a citizen of the United States in order to be eligible for the Lifeline Credit Program/Tenants Lifeline Assistance Program.

8:83A-4.6 Disability

(a) The Lifeline applicant who is under 65 years of age and over age 18 and receiving Social Security Title II disability benefits must be able to document his or her Social Security disability determination upon request of the Department. The applicant must submit a copy of one of the following documents:

1. Social Security Award Certification (SSA-L30) issued by the Social Security Administration within the last six months of application; or
2. Report of Confidential Social Security Beneficiary Information (SSA-2458).

8:83A-4.7 Utility information

- (a) A residential utility customer shall submit documentation of his or her utility account(s) to the Department before a Lifeline Credit will be applied to his or her account.
 1. A residential utility customer shall submit a copy of his or her most recent electric and/or gas bill or statement. The utility statement must be made out in the applicant's or spouse's name.
- (b) When an applicant is a tenant and the utility costs are included in the monthly rental, the applicant shall submit the name and address of his or her landlord.

8:83A-4.8 Lifeline eligibility applications

- (a) The Department shall mail a Lifeline application (LL-1) to all Medical Assistance to the Aged, Medicaid Only beneficiaries and New Jersey Care Special Medicaid Program beneficiaries, except for those residing in nursing facilities, that are eligible each year. There shall be only one application for those beneficiaries who apply for both PAAD and Lifeline (Form AP-2).
- (b) When an individual meets the residency, income, age, or disability requirements of the PAAD program and is not an SSI beneficiary and wishes to apply for Lifeline Only, the individual shall complete the required application and return it to the Lifeline Program.
- (c) For those Lifeline beneficiaries who met the qualifications for Lifeline Only in the previous year and received benefits, a preprinted form will be sent to them. This form obviates the need for an applicant to again prove residency and/or age.
- (d) When the Lifeline Program receives the completed application form, either the LL-1 or the combined application form, the Lifeline Program will determine whether the beneficiary is eligible for the Lifeline Credit or Tenants Lifeline Assistance and authorize credit/payment accordingly.

8:83A-4.9 Social Security Account Number

- (a) Each applicant for the Lifeline benefit must include his or her Social Security Account Number (SSAN) on the application form. The SSAN, a unique and verifiable number, is utilized to differentiate between persons with the same name. Married persons must also indicate the SSAN of their spouse.

- (b) In the event that the applicant does not have a SSAN, a unique identifying number will be assigned by the Department. This number will be used to uniquely identify the Lifeline beneficiary.

8:83A-4.10 Certification

The applicant for Lifeline benefits must certify that all answers to the questions and items on the application form either the LL-1 or the combined application form, are true and accurate to the best of his or her knowledge. This certification shall be dated, signed (or marked) by the applicant and spouse (if married), and the preparer of the form (if other than the applicant), before the application can be processed.

8:83A-4.11 Authorization

- (a) By signing/marking the certification and authorization statement on the application form, the applicant authorizes:
 - 1. The Department to verify any information on the form by contacting the Social Security Administration, the Internal Revenue Service, the New Jersey Division of Taxation, employers and others as the need arises; and
 - 2. Visitation and review by representatives of the Department.

8:83A-4.12 Eligibility period

A Lifeline Credit shall be applied to the account(s) of a residential utility customer and remain on the account until it is used or the account is terminated. (See N.J.A.C. 8:83A-1.4.)

8:83A-4.13 Appeal process

- (a) When the Lifeline Program determines that an applicant is ineligible for benefits, the applicant has the right to appeal the decision by submitting a written request for a fair hearing to the Lifeline Credit Program, Department of Health and Senior Services, PO Box 722, Trenton, NJ 08625-0722, within 30 calendar days from the date of mailing of the notice of ineligibility. The document must clearly state the valid basis for such a request.
- (b) The Lifeline Program will forward the hearing request to the Office of Administrative Law which will schedule the hearing and notify all parties of the date, time and location, pursuant to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

- (c) The petitioner will have the burden of demonstrating that the Lifeline Program's determination deviates from the requirements and standards of the regulations and statute.
- (d) When the petitioner requests a fair hearing, they shall clearly indicate the existence of a disputed question of fact or law arising from the requirements and standards of the rules and statutes of the Lifeline Program. If the petitioner fails to establish a contested case, the Lifeline Program shall deny the hearing request. Hearings are not intended to be informational or to provide a forum for the expression of public sentiment on Lifeline Program actions or policies.

SUBCHAPTER 5 RECOVERIES

8:83A-5.1 Benefits incorrectly paid

- (a) The Department shall take all necessary action to recover the Tenants Lifeline Assistance payments incorrectly or illegally made or the Lifeline Credit incorrectly or illegally applied, on behalf of an electric and/or gas utility customer, from the residential utility customer and any party or parties whose action or inaction resulted in the incorrect payment or from their respective estates, as the case may be. The action shall include, but is not limited to:
 - 1. Requesting the Attorney General to commence civil actions;
 - 2. Reducing subsequent Lifeline benefits to which the beneficiary may be entitled;
 - 3. Reducing New Jersey State income tax refunds to which the beneficiary may be entitled; and/or
 - 4. Reducing New Jersey Homestead Rebates to which the beneficiary may be entitled.
- (b) The term "incorrect credit" includes, but is not limited to, credit given to an electric and/or gas residential utility customer who is no longer eligible, or has been incorrectly determined to be eligible to receive credit.
- (c) The term "illegal credit" includes, but is not limited to, credits made as a result of any false statement or representation by the applicant, or by the deliberate concealment of a material fact by the applicant.
- (d) The term "incorrect payment" includes, but is not limited to, payments made to a beneficiary who is no longer eligible, or who has been incorrectly determined to be eligible to receive payment.
- (e) The term "illegal payment" includes, but is not limited to, payments made as a result of any false statement or representation by the applicant, or by the deliberate concealment of a material fact by the applicant.
- (f) For the purposes of carrying out the provisions of this section, no public utility, as defined herein, shall be held liable for any Lifeline Credit either improperly or illegally obtained by a Lifeline beneficiary, once that Lifeline beneficiary has been identified by the appropriate State instrumentality and made known to the utility as an eligible Lifeline beneficiary.
 - 1. When a public utility becomes aware that a Lifeline Credit has been improperly credited to the account of an ineligible customer or that an eligible residential utility customer has been credited in an amount in

excess of the statutory limit, the utility shall immediately advise the Department. The Department will investigate the incident and advise the public utility of the appropriate action to take.

- (g) All applicants and beneficiaries shall have the right to a hearing, through the Office of Administrative Law, to contest denials, eligibility determinations or recoveries.